



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,801	09/18/2002	Finoula Mary Brennan	20020113.ORI	4930
7590	09/29/2005		EXAMINER	
C G Merereau Nikolai & Mersereau 820 International Centre 900 Second Avenue South Minneapolis, MN 55402-3813			JALLA, SANJOO	
			ART UNIT	PAPER NUMBER
			1644	

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/088,801

Applicant(s)

BRENNAN ET AL.

Examiner

Sanjoo Shree Jalla

Art Unit

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 56-114 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 56-114 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

Art Unit: 1644

### DETAILED ACTION

1. Restriction is required under 35 U.S.C. 121 and 372.
2. This application contains the following inventions or groups of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

Group I, claims 56-63, drawn to a method of treatment of a chronic inflammatory disease in a patient.

Group II, claims 64-67 and 69-81, drawn to a method of identifying a compound comprising pre-incubating monocytes with a compound to be tested for an ability to selectively inhibit T<sub>ck</sub> cells.

Group III, claims 64-66, 68-71 and 75-81, drawn to a method of identifying a compound comprising pre-incubating T<sub>ck</sub> cells and T<sub>ter</sub> cells with a compound to be tested.

Group IV, claim 82 and 108, drawn to a compound as having efficacy in the treatment of a chronic inflammatory disease.

Group V, claims 83-86, drawn to an antibody-like molecule having specificity for T<sub>ck</sub> cells.

Group VI, claim 87, drawn to a method of making an antibody-like molecule having specificity for T<sub>ck</sub> cells.

Group VII, claims 88 and 89, drawn to an isolated cell.

Group VIII, claims 90 and 91, drawn to a method for identifying an antibody-like molecule.

Group IX, claims 92-101, drawn to a compound comprising a target cell specific portion and a cytotoxic portion. Target cell specific portion comprises an antibody-like molecule.

Group X, claims 102-107, drawn to a compound comprising a target cell specific portion and a cytotoxic portion, having a nucleic acid molecule encoding.

Group XI, claims 109-114, drawn to a preparation of T-cell enriched cells.

Art Unit: 1644

### Species Election

3. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

4. The species are as follows:

If group I, II or III is elected, applicant is required to elect a single disclosed species of a factor that the compound either inhibits or activates wherein the factor is:

- A. TNF $\alpha$
- B. NF-kB or
- C. PI3 kinase

5. In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

6. The inventions listed as groups I-XI and the species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reason:

The invention of group XI, preparation of T-cell enriched cells from tissue from a patient suffering from a chronic inflammatory disease, has no special technical feature that defines the contribution over the prior art of Cohen *et al*, 1995 (IDS).

Cohen *et al* discloses preparation of T-cell enriched cells from RA patients.

7. Since Applicant's inventions do not contribute a special technical feature when viewed over the prior art they do not have a single general inventive concept and so lack unity of invention.

8. Accordingly, groups I-XI are not so linked as to form a single general inventive concept and restriction is proper.

Art Unit: 1644

9. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).


10. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Sanjoo S Jalla whose telephone number is 571-272-4453. The examiner can normally be reached Monday through Friday from 8:30-5pm.

12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on 571-272-0841. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic /Business Center (EBC) at 866-217-9197 (toll-free).

Sanjoo S. Jalla, Ph.D.  
Patent Examiner  
Technology Center 1600

  
9/22/08  
G.R. EWOLDT, PH.D.  
PRIMARY EXAMINER